

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Sudeen G. Kelly.

Freebird Gas Storage, LLC

Docket No. CP05-29-001

ORDER AMENDING CERTIFICATE

(Issued October 14, 2005)

1. On September 14, 2005, Freebird Gas Storage, LLC, (Freebird) filed an application under section 7(c) of the Natural Gas Act (NGA) to amend the certificate of public convenience and necessity issued April 15, 2005, (April 2005 Order) authorizing Freebird to acquire, own and operate the existing East Detroit Storage Facility in Lamar County, Alabama to accommodate the injection, storage, and subsequent withdrawal of natural gas for redelivery in interstate commerce.¹

2. We will grant the requested authorization as discussed and conditioned below.

I. Background

3. Freebird is a limited liability company organized and existing under the laws of the State of Alabama. The primary interest owner of Freebird is MultiFuels, LP, a limited partnership organized and existing under the laws of the State of Texas.² Freebird is a natural gas company within the meaning of section 2(6) of the NGA.

4. The East Detroit Storage Facility located in Lamar County, Alabama, commenced operation in 2001. It was converted from a depleted natural gas reservoir to gas storage by Northwest Alabama Gas District (District), the co-owner of the facility. MultiFuels and District entered into a memorandum of understanding under which MultiFuels created Freebird as the project entity to develop, own, and operate an estimated 6 Bcf of

¹*Freebird Gas Storage, LLC*, 111 FERC ¶ 61,054 (2005).

² MultiFuels specializes in the acquisition, development, and operation of high value mid-stream natural gas and other energy assets, including natural gas gathering systems in Texas and Louisiana.

additional working gas capacity in the East Detroit Field. Freebird has an 80 percent undivided ownership interest, and District has a 20 percent undivided ownership interest, in all of the integrated assets.³

5. The Commission has determined that District is a municipality under section 2(3) of the NGA and therefore is not subject to the Commission's jurisdiction.⁴ After Freebird's expansion of the East Detroit Storage Facility, District will continue to use its existing capacity in the storage field to serve its local distribution customers in its six member municipalities which are all located in Alabama. Therefore, District's joint ownership of the storage facility with a jurisdictional storage company will not affect District's nonjurisdictional status.⁵

II. The April 2005 Order

6. In the April 2005 Order, Freebird was issued certificate authority to expand the East Detroit Field to provide high-deliverability storage services; construct a 4.28-mile long, 16-inch lateral from the storage facility to the 500 Leg Mainline of the Tennessee Gas Pipeline Company (Tennessee); drill four new injection/withdrawal wells from three new well pads and install two connecting flow lines of approximately 0.65 and 0.41 miles within the existing boundaries of the storage project; install three new compressor units at the existing compressor station to increase the available compression from approximately 4,000 horsepower (hp) to 11,130 hp; and construct associated facilities.

7. When completed, the total storage inventory will be approximately 11.0 Bcf at 14.73 psia and 60 degrees Fahrenheit, with a maximum stabilized bottomhole reservoir pressure of 680 psia. Freebird will provide approximately 6.0 Bcf of storage capacity while maintaining 1.44 Bcf for District. The facility will have a withdrawal capability of 160,000 Mcf per day (Mcf/d).

8. In the April 2005 Order, Freebird was granted authority to charge market-based rates for all of the storage services it will provide. Freebird states that the proposed modifications do not result in a change of the storage rates or services previously authorized.

³ District retains 100 percent ownership of the existing 242,250 dekatherms of cushion gas in the East Detroit Field.

⁴ See *Northwest Alabama Gas District*, 42 FERC ¶ 61,371 (1988).

⁵ See, e.g., *El Paso Natural Gas Co.*, 47 F.P.C. 1527 (1972). See also *Sunshine Mining Co.*, 36 FERC ¶ 61,186 (1986).

III. Proposal

9. On September 14, 2005, Freebird filed to amend its certificate authority to permit minor changes to the storage field area facilities. Freebird proposes to construct a new Well 6D, 2 new wells on Well Pad 7AB, flow lines to the new wells and a new access road to Well Pad 7AB. Freebird also proposes to expand Well Pad 6D.

10. In order to meet its in-service target, Freebird requests that the Commission authorize the requested modifications by November 1, 2005.

IV. Interventions

11. Notice of Freebird's application was published in the *Federal Register* on October 3, 2005 (69 *Fed. Reg.* 57579). No protests, comments, or petitions to intervene in opposition were filed.

V. Discussion

12. Since the proposed facilities will be used to transport natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

A. Certificate Policy Statement

13. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction.⁶ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, we balance the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by

⁶ *Certification of New Interstate Natural Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶ 61,227 (1999), *order clarifying statement of policy*, 90 FERC ¶ 61,128, *order further clarifying statement of policy*, 92 FERC ¶ 61,094 (2000).

existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

14. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will we proceed to complete the environmental analysis where other interests are considered.

15. As noted in the April 2005 Order, Freebird is a new entrant in the natural gas storage market and has no existing customers. Thus, there will be no subsidization. Further, with the authority to charge market-based rates for its services, Freebird assumes all the economic risk associated with the project.

16. Freebird's proposed modifications are minor and do not result in any changes to the storage services or the fundamental certificated operating parameters of the storage facility as authorized in the April 2005 Order. The same number of wells as previously certificated (four) will be drilled. The proposed modifications only involve the expansion of an existing well pad and the construction of a new well pad and access road within the East Detroit Field. All of the land on which the East Detroit Field is located is currently leased by District and no new landowners are affected by these changes, therefore no eminent domain proceedings will be required in order to construct these modifications. There is no landowner opposition to the proposal. Because of the elimination of three well pads, the total acreage impacted by Freebird's project will be reduced by 1.99 acres. Thus, we find that any adverse impacts on landowners and communities near the storage field will be minimal. As such, the proposed modifications continue to satisfy the criteria set forth in the Commission's Policy Statement, and the facility continues to be in the public convenience and necessity.

B. Environmental Assessment

17. Our staff prepared an environmental assessment (EA) for Freebird's proposal. The EA addresses water use and quality, vegetation and wildlife, cultural resources, geology, soils, land use, air quality and noise, alternatives, and polychlorinated biphenyls.

Based on the discussion in the EA, we conclude that if constructed in accordance with Freebird's amendment submitted September 14, 2005 and other supplements filed, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

18. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. We encourage cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.⁷

19. Freebird shall notify the Commission's environmental staff by telephone or facsimile of any noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Freebird. Freebird shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

20. All conditions, as issued in the April 15, 2005 Order, still apply with the exception of Environmental Condition 7, which Freebird fulfilled by filing the Alabama State Historic Preservation Office's comments on April 20, 2005. We have added Environmental Condition 1 to address outstanding cultural resource issues for the amended facilities.

C. Engineering

21. The engineering staff analyzed Freebird's proposed modifications and concluded that if constructed as proposed, there should be no changes to Freebird's certificated levels of capacity and deliverability.

22. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

⁷ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

The Commission orders:

(A) The certificate issued in Docket No. CP05-29-000 pursuant to section 7(c) of the NGA to acquire, construct, and operate the storage and related pipeline facilities is amended as described and conditioned herein and as more fully described in the application.

(B) The amended certificate described in ordering paragraph (A) is conditioned on Freebird's compliance with all applicable Commission regulations under the NGA, particularly the general terms and conditions set forth in Part 157 and paragraphs (a), (c), (d), (e), and (f) of section 157.20 of the regulations.

(C) The amended certificate described in Ordering Paragraph (A) is conditioned upon Freebird's compliance with the environmental conditions set forth in the appendix to this order and the April 15, 2005 Order with the exception of Environmental Condition 7, which Freebird has fulfilled.

(D) Freebird's facilities shall be made available for service within eighteen months of the date of the order in this proceeding as required by section 157.20(b) of the Commission's regulations.

(E) Freebird shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Freebird. Freebird shall file written confirmation with the Secretary of the Commission within 24 hours.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix

Environmental Condition for Freebird's Project

1. Freebird shall defer construction and use of facilities, storage, and temporary work areas and new or to-be-improved access roads **until**:
 - a. Freebird files the Alabama SHPO's comments on the cultural resources survey report; and
 - b. the Director of OEP notifies Freebird in writing that it may proceed.